

JS 44 (Rev. 12/07) (and rev 1-16-08)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

**I. (a) PLAINTIFFS**

David Johnson

**DEFENDANTS**

York Sing Mock and Lok Kin Mock

(b) County of Residence of First Listed Plaintiff Contra Costa  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Santa Clara  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Attorneys (If Known)

Thomas N. Stewart, III  
369 Blue Oak Lane  
Clayton, Ca 94517  
(925) 672-8452

**EMC****ADR** *E-filing***II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☒ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act  <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
 42 USC 12101  
 Brief description of cause:  
 ADA Title III

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23  
**DEMAND \$**

CHECK YES only if demanded in complaint:  
**JURY DEMAND:** ☐ Yes ☒ No

**VIII. RELATED CASE(S) IF ANY**

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)**☒ SAN FRANCISCO/OAKLAND☐ SAN JOSE

DATE  
 October 27, 2008

SIGNATURE OF ATTORNEY OF RECORD

*Thomas N. Stewart, III*

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Attorneys for David Johnson

*David Johnson*  
**FILED**  
08 OCT 29 PM 2:49  
CLAYTON DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

*EMC*

**ORIGINAL**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DAVID JOHNSON,

Plaintiff,

v.

YORK SING MOCK and  
IOK KIN MOCK,

Defendants.

**C 08**  
C 08-  
Civil Rights

**4955**

COMPLAINT FOR PRELIMINARY AND  
PERMANENT INJUNCTIVE RELIEF AND  
DAMAGES: DENIAL OF CIVIL RIGHTS AND  
PUBLIC FACILITIES TO PHYSICALLY  
DISABLED PERSONS (CIVIL CODE §§ 54,  
54.1 AND 55; INJUNCTIVE RELIEF PER  
TITLE III, AMERICANS WITH DISABILITIES  
ACT OF 1990

Plaintiff, David Johnson, alleges:

FIRST CLAIM FOR RELIEF: DAMAGES AND INJUNCTIVE RELIEF  
FOR DENIAL OF FULL AND EQUAL ACCESS TO A PUBLIC ACCOMMODATION:  
PUBLIC FACILITIES AT A RESTAURANT (Civil Code §§ 51, 54.1)

1. Plaintiff is a C5/6 quadriplegic as the result of an accident. He does not have the use of his legs, and has limited use of his hands, and is a "person with a disability" and "physically handicapped person". Plaintiff requires the use of a wheelchair for locomotion and is either unable to use portions of public facilities which are not accessible to disabled persons who

1 require the use of a wheelchair or is only able to use such portions with undue difficulty.

2 2. The California Bar and Grill restaurant, located at 2009 Somersville Road, Antioch,  
3 California (the Restaurant) is a Restaurant which is open to the public. Defendants own the real  
4 property where the Restaurant is located.

5 3. Summary of facts: This case involves the denial of access to Plaintiff and others similarly  
6 situated at the Restaurant on October 7, 2008. Plaintiff was denied equal protection of the law  
7 and was denied Civil Rights under both California law and federal law, as hereinbelow  
8 described. Plaintiff was denied his rights to full and equal access at the Restaurant because of  
9 an inaccessible parking and restroom, all of which made the Restaurant not properly accessible  
10 to Plaintiff and to others similarly situated. Plaintiff seeks injunctive relief to require  
11 Defendants to make the parking and restroom accessible, to comply with ADAAG and the CBC  
12 where required, to remove all barriers to access in the Restaurant which are readily achievable  
13 to remove, to make all reasonable accommodations in policy in order to enable Plaintiff and  
14 others similarly situated to use the Restaurant and at minimum, to use readily achievable  
15 alternative methods to enable Plaintiff to use the goods and services which the Restaurant  
16 makes available to the non-disabled public. Plaintiff also seeks the recovery of damages for his  
17 personal damages involved in the discriminatory experiences on October 7, 2008, and seeks  
18 recovery of reasonable attorney's fees and litigation expenses and costs according to statute.  
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20 4. Jurisdiction: This Court has jurisdiction of this action pursuant to 28 USC § 1331 for  
21 violations of the Americans with Disabilities Act of 1990, 42 USC 12101 et seq. Pursuant to  
22 supplemental jurisdiction, attendant and related causes of action arising from the same facts are  
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1 also brought under California law, including but not limited to violations of California Civil  
2 Code §§ 51, 54, 54.1 and 55.

3 5. Venue: Venue is proper in this Court pursuant to 28 USC 1391(b) and is founded on the fact  
4 that the location where Plaintiff experienced his discrimination is located in this district and  
5 that Plaintiff's causes of action arose in this district.

6 6. Intradistrict: This case should be assigned to the San Francisco intradistrict because the  
7 incident occurred in, and Plaintiff's rights arose in, the San Francisco intradistrict.

8 7. The Restaurant is a "public accommodation or facility" subject to the requirements of  
9 California Civil Code § 51, 54, 54.1 and 55.

10 8. Placeholder.

11 9. Defendant is and was the owner, operator, manager, lessor and lessee of the subject  
12 Restaurant at all times relevant herein. Plaintiff is informed and believes that each of the  
13 Defendants is and was the agent, employee or representative of each of the other Defendants,  
14 and performed all acts and omissions stated herein within the scope of such agency or  
15 employment or representative capacity and is responsible in some manner for the acts and  
16 omissions of the other Defendants in proximately causing the damages complained of herein.

17 10. Plaintiff and others similarly situated are disabled persons who require the use of a  
18 wheelchair and are unable to use public facilities on a "full and equal" basis unless each such  
19 facility is in compliance with the provisions of the Americans with Disabilities Act of 1990 and  
20 the regulations thereof. Under Civil Code §§ 51 and 54.1, Defendants were required to comply  
21 with the requirements of the Americans with Disabilities Act of 1990 and the federal  
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1 regulations adopted pursuant thereto. The acts and omissions of which Plaintiff complains took  
2 place at the Restaurant.

3 11. Civil Code §§ 51 and 54, et seq., were enacted to prohibit discrimination against people  
4 with disabilities and to encourage the full and free use by people with disabilities of public  
5 facilities and other public places. CC §§ 51 and 54(c) state that a violation of the Americans  
6 with Disabilities Act of 1990 is a "violation of this section"; CC § 54.1(a) states that  
7 individuals with disabilities are entitled to "full and equal access" to public accommodations  
8 and that such access means that which meets the standards of Titles II and III of the Americans  
9 with Disabilities Act of 1990 and federal regulations adopted pursuant thereto; CC § 52 states  
10 that minimum damages for discrimination are \$4,000 for each incidence of discrimination; CC  
11 § 54.3 states that minimum damages for discrimination are \$1,000; CC § 54.3 states that a  
12 defendant who denies or interferes with a disabled person's rights of access is liable for actual  
13 damages and attorneys' fees.

14 12. Health & Safety Code § 19955 was enacted "To ensure that public accommodations or  
15 facilities constructed in this state with private funds adhere to provisions of Chapter 7  
16 (commencing with § 4450) of Division 5 of Title 1 of the Government Code." Such public  
17 accommodations include those which are the subject of this action. On information and belief,  
18 Title 24 California Code of Regulations, formerly known as the California Administrative  
19 Code, was in effect at the time of construction and of each alteration of work, all of which  
20 occurred after July 1, 1982, thus requiring access complying with the specifications of title 24  
21 for all such construction and for each such "alteration, structural repair or addition".  
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1 13. The Restaurant's parking lot is not accessible because of a built-up curb ramp which  
2 prevents the access aisle from being level. The Restaurant's men's restroom is inaccessible to  
3 people in wheelchairs, because there is insufficient maneuvering space next to the toilet.

4 On October 7, 2008, Plaintiff patronized the Restaurant. Because of the built-up  
5 curb ramp, it was more difficult for Plaintiff to get out of his vehicle, and ultimately back  
6 into it, than it should have been. Because of the inaccessible restroom, Plaintiff had to go home  
7 to urinate.

8 As a result, Plaintiff was embarrassed and humiliated in an amount according to proof.

9 14. Defendant's failure to create an accessible men's restroom for the Restaurant, remove all  
10 readily achievable barriers, institute policies in furtherance of accessibility or at least have an  
11 alternate policy to enable Plaintiff to use the goods and services offered to the non-disabled  
12 public without having to suffer the indignities, as aforesaid, was a violation of the California  
13 Building Code, the Americans with Disabilities Act and federal regulations adopted pursuant  
14 thereto, and as a consequence, was a violation of Civil Code §§ 51 and 54, et seq.

15 15. Injunctive relief: Plaintiff seeks injunctive relief to prohibit the acts and omissions by  
16 Defendants at the Restaurant as stated above which appear to be continuing, and which have the  
17 effect of wrongfully excluding Plaintiff and others similarly situated from using the Restaurant.  
18 Plaintiff will patronize the Restaurant again once the barriers are removed. Such acts and  
19 omissions are the cause of humiliation and inconvenience of Plaintiff in that these actions  
20 continue to treat Plaintiff as an inferior and second class citizen and serve to discriminate  
21 against Plaintiff on the sole basis that Plaintiff is a person with a disability and requires the use  
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1 of a wheelchair for movement in public places. Plaintiff is unable so long as such acts and  
2 omissions of Defendant continue, to achieve equal access to and use of this public facility. The  
3 acts of Defendant have proximately caused and will continue to cause irreparable injury to  
4 Plaintiff if not enjoined by this Court.

5 16. Damages: As a result of the denial of equal access to the Restaurant and due to the acts and  
6 omissions of Defendants and each of them in owning, operating and/or leasing the Restaurant,  
7 Plaintiff suffered a violation of Civil Rights including but not limited to rights under Civil Code  
8 §§ 51, 54 and 54.1, and suffered mental and emotional distress, all to Plaintiff's damages.  
9 Defendant's actions and omissions to act constituted discrimination against Plaintiff on the sole  
10 basis that Plaintiff was physically disabled and unable to use the facilities on a full and equal  
11 basis as other persons. Plaintiff seeks actual damages, the minimum per occurrence damages of  
12 \$4,000 pursuant to CC § 52, and \$1,000 pursuant to CC § 54.3. Plaintiff also seeks trebling of  
13 all of the actual damages as provided by Civil Code § 54.3.

14 17. Fees and costs: As a result of Defendant's acts, omissions and conduct, Plaintiff has been  
15 required to incur attorney's fees, litigation expenses, and costs as provided by statute, in order  
16 to enforce Plaintiff's rights and to enforce provisions of the law protecting access for disabled  
17 persons and prohibiting discrimination against disabled persons. Plaintiff therefore seeks  
18 recovery of all reasonable attorney's fees and costs, pursuant to the provisions of Civil Code §§  
19 52 and 54.3. Additionally, Plaintiff's lawsuit is intended not only to obtain compensation for  
20 damages to Plaintiff, but also to force the Defendants to make their facilities accessible to all  
21 disabled members of the public, justifying "public interest" attorney's fees, litigation expenses  
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1 and costs pursuant to Code of Civil Procedure § 1021.5.

2 18. Wherefore, Plaintiff asks this Court to preliminarily and permanently enjoin any continuing  
3 refusal by Defendants to comply with the requirements of the Americans with Disabilities Act  
4 of 1990 and regulations adopted pursuant thereto with respect to access of disabled persons to  
5 the Restaurant; for statutory damages pursuant to CC § 52; for actual and treble damages  
6 pursuant to CC § 54.3 and for attorneys' fees and costs pursuant to CC §§ 52, 54.3 and 1021.5.

7 SECOND CLAIM FOR RELIEF:  
8 VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990  
9 42 USC §§ 12101 FF

10 19. Plaintiff realleges the allegations of paragraphs 1-18 hereof.

11 20. Pursuant to law, in 1990 the United States Congress made findings per 42 USC §12101  
12 regarding physically disabled persons, finding that laws were needed to more fully protect  
13 "some 43 million Americans [with] one or more physical or mental disabilities"; that  
14 "historically society has tended to isolate and segregate individuals with disabilities"; and that  
15 "such forms of discrimination against individuals with disabilities continue to be a serious and  
16 pervasive social problem"; that "the Nation's proper goals regarding individuals with disabilities  
17 are to assure equality of opportunity, full participation, independent living and economic self  
18 sufficiency for such individuals"; and that "the continuing existence of unfair and unnecessary  
19 discrimination and prejudice denies people with disabilities the opportunity to compete on an  
20 equal basis and to pursue those opportunities for which our free society is justifiably famous ..."

21 21. Congress stated as its purpose in passing the Americans with Disabilities Act (42 USC  
22 §12101(b)):



1 It is the purpose of this act

2 (1) to provide a clear and comprehensive national mandate for the elimination of  
discrimination against individuals with disabilities;

3 (2) to provide clear, strong, consistent, ***enforceable standards*** addressing discrimination  
4 against individuals with disabilities;

5 (3) to ensure that the Federal government plays a central role in enforcing the standards  
established in this act on behalf of individuals with disabilities; and

6 (4) to invoke the sweep of Congressional authority, including the power to enforce the  
7 14th Amendment and to regulate commerce, in order to address the major areas of  
***discrimination faced day to day*** by people with disabilities (emphasis added).

8 22. As part of the Americans with Disabilities Act, Public Law 101-336 (hereinafter the  
9 "ADA"), Congress passed "Title III - Public Accommodations and Services Operated by Private  
10 Entities" (42 USC 12181 ff). Among "private entities" which are considered "public  
11 accommodations" for purposes of this Title is a Restaurant (Regulation 36.104).

12 23. Pursuant to §302, 42 USC §12182, "No individual shall be discriminated against on the  
13 basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges,  
14 advantages or accommodations of any place of public accommodation by any person who  
15 owns, leases or leases to, or operates a place of public accommodation."

16 24. Among the specific prohibitions against discrimination were included:

17 ***§12182(b)(2)(A)(ii)***: "A failure to make reasonable modifications in policies, practices or  
18 procedures when such modifications are necessary to afford such goods, services, facilities,  
19 privileges, advantages or accommodations to individuals with disabilities ...";

20 ***§12182(b)(A)(iii)***: "a failure to take such steps as may be necessary to ensure that no individual  
21 with a disability is excluded, denied service, segregated, or otherwise treated differently than  
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1 other individuals because of the absence of auxiliary aids and services ..."; §12182(b)(A)(iv):

2 "A failure to remove architectural barriers and communication barriers that are structural in  
3 nature, in existing facilities ... where such removal is readily achievable"; §12182(b)(A)(v):

4 "Where an entity can demonstrate that the removal of a barrier under clause (iv) is not readily  
5 achievable, a failure to make such goods, services, facilities, privileges, advantages, or  
6 accommodations available through alternative methods if such methods are readily achievable".

7 The acts and omissions of Defendants set forth herein were in violation of Plaintiff's rights  
8 under the ADA, Public Law 101-336, and the regulations promulgated thereunder, 28 CFR Part  
9 36ff.

10 25. The removal of each of the barriers complained of by Plaintiff as hereinabove alleged, were  
11 at all times herein mentioned "readily achievable" under the standards of the Americans With  
12 Disabilities Act. Because the Restaurant was not accessible, Defendants had an obligation to  
13 have some sort of plan which would have allowed Plaintiff to enjoy the Restaurant's services  
14 without having to suffer the indignities as aforesaid.

15 26. Pursuant to the Americans with Disabilities Act, 42 USC 12188ff, §308, Plaintiff is  
16 entitled to the remedies and procedures set forth in §204(a) of the Civil Rights Act of 1964, 42  
17 USC 2000(a)-3(a), as Plaintiff is being subjected to discrimination on the basis of disability in  
18 violation of this Title or has reasonable grounds for believing that he is about to be subjected to  
19 discrimination in violation of §12182. On information and belief, Defendants have continued  
20 to violate the law and deny the rights of Plaintiff and of other disabled persons to access this  
21 public accommodation since on or before October 7, 2008. Pursuant to §12188(a)(2), "In cases  
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1 of violations of §12182(b)(2)(A)(iv) ... injunctive relief shall include an order to alter facilities  
2 to make such facilities readily accessible to and usable by individuals with disabilities to the  
3 extent required by this title."

4 27. Plaintiff seeks relief pursuant to remedies set forth in §204(a) of the Civil Rights Act of  
5 1964, (42 USC 2000(a)-3(a), and pursuant to Federal Regulations adopted to implement the  
6 Americans with Disabilities Act of 1990. Plaintiff is a person for purposes of Section 12188(a)  
7 of the ADA who is being subjected to discrimination on the basis of disability in violation of  
8 Title III and who has reasonable grounds for believing he will be subjected to such  
9 discrimination each time that he may attempt to patronize the Restaurant.

10 Wherefore Plaintiff prays for relief as hereinafter stated:

11 PRAYER

12 1. Issue a preliminary and permanent injunction directing Defendants to modify its  
13 facilities as required by law to comply with the ADAAG and the CBC where required, remove  
14 all barriers where it is readily achievable to do so, institute policies in furtherance of  
15 accessibility or at least have an alternate policy to enable Plaintiff to use the goods and services  
16 offered to the non-disabled public so that it provides adequate access to all citizens, including  
17 persons with disabilities; and issue a preliminary and permanent injunction directing  
18 Defendants to maintain its facilities usable by plaintiff and similarly situated persons with  
19 disabilities in compliance with federal regulations, and which provide full and equal access, as  
20 required by law;  
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22 2. Retain jurisdiction over the Defendants until such time as the Court is satisfied that  
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1 Defendants' unlawful policies, practices, acts and omissions, and maintenance of inaccessible  
2 public facilities as complained of herein no longer occur, and will not recur;

3 3. Award to Plaintiff all appropriate statutory damages;

4 4. Award to Plaintiff all reasonable attorneys' fees, all litigation expenses, and all costs  
5 of this proceeding as provided by law; and

6 5. Grant such other and further relief as this Court may deem just and proper.

7 Date: October 27, 2008

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\_\_\_\_S/Thomas N. Stewart, III\_\_\_\_

Attorney for Plaintiff